



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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ACT 118
(S.B. No. 1076, S.D. 1, H.D. 3)

Relating to EMPLOYMENT PRACTICES
Effective July 1, 2011

Summary of Act

Act 118, signed into law in the 2011 Legislative session, provides employees with greater protection by making it unlawful, under specified conditions, for an employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave.

Effective July 1, 2011, Section 378-32 is amended to read "Unlawful suspension, **barring, discharge, withholding pay, demoting**, or discrimination." (*Amended wording is in bold*).

The section title does not change the hearings process for cases of garnishment, work injury or an employee who testified in a proceeding under this part, or because an employee tested positive on a substance abuse on-site screening test.

However, under Section 378-32, HRS, a new paragraph (b) is added that states:

(b) It shall be unlawful for an employer or a labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave; provided that:

- (1) After an employee uses three or more consecutive days of sick leave, an employer or labor organization may require the employee to provide written verification from a physician indicating that the employee was ill when the sick leave was used;*
- (2) This subsection shall apply only to employers who:*
 - (A) Have a collective bargaining agreement with their employees; and*
 - (B) Employ one hundred or more employees; and*
- (3) Nothing in this subsection shall be construed to supersede any provision of any collective bargaining agreement or employment benefits program or plan that provides greater employee benefits or rights."*